

Assembly Republican Majority

Bill Summary

AB 379: Kenosha Tax Incremental District (TID)

Relating to: Extending the expenditure period and the life of tax incremental districts in Kenosha

By Representatives Steinbrink, Kreuser and Kerkman and Senators Wirch, Stepp, Panzer and Schultz.

Date: June 24, 2003

BACKGROUND

Under the current tax incremental financing (TIF) program, a city or village may create a tax incremental district (TID) in part of its territory to foster development if at least 50% of the area to be included in the TID is blighted, in need of rehabilitation, or suitable for industrial sites. Before a city or village may create a TID, several steps and plans are required. These steps and plans include public hearings on the proposed TID within specified time frames, preparation and adoption by the local planning commission of a proposed project plan for the TID, approval of the proposed project plan by the common council or village board, and adoption of a resolution by the common council or village board that creates the district as of a date provided in the resolution.

Also under current law, once a TID has been created, the Department of Revenue (DOR) calculates the "tax increment base value" of the TID, which is the equalized value of all taxable property within the TID at the time of its creation. If the development in the TID increases the value of the property in the TID above the base value, a "value increment" is created. That portion of taxes collected on the value increment in excess of the base value is called a "tax increment". The tax increment is placed in a special fund that may be used only to pay back the project costs of the TID. The costs of a TID, which are initially incurred by the creating city or village, include public works such as sewers, streets, and lighting systems; financing costs; site preparation costs; and professional service costs. DOR authorizes the allocation of the tax increments until the TID terminates or, generally, 23 years or 27 years in certain cases, after the TID is created, whichever is sooner. TIDs are required to terminate, under current law and with one exception, once these costs are paid back, 16 years, or 20 years in certain cases, after the last expenditure identified in the project plan is made or when the creating city or village dissolves the TID, whichever occurs first. Under the exception, which is limited to certain circumstances, after a TID pays off its project costs, but not later than the date on which it must otherwise terminate, the planning commission may allocate positive tax increments generated by the TID (the "donor" TID) to another TID that has been created by the planning commission.

Also under current law, certain TIDs in the City of Kenosha may share their tax increments (donor TIDs) with other TIDs in that city (donee TIDs) if environmental pollution in the donee TID slows development in that TID. Currently, expenditures by a donee TID may be made no later than 12 years after the creation of such a TID, and a donee TID may be allocated tax increments no later than 30 years after the last expenditure identified in the donor TID's project plan is made, except that in no case may the total number of years during which such expenditures are made and tax increments are allocated exceed 37 years.

Generally under current law, during the seven years after a TID is created, a planning commission may adopt an amendment to a project plan to modify the district's boundaries not more than once.

SUMMARY OF AB 379 (AS AMENDED BY COMMITTEE)

Under Assembly Bill 379, expenditures of any TID that is located in Kenosha and that is created before January 1, 2004, may be made no later than 17 years after the creation of such a TID, and a donee TID may be allocated tax increments no later than 35 years after the last expenditure identified in the donor TID's project plan is made, except that in no case may the total number of years during which such expenditures are made and tax increments are allocated exceed 42 years. The bill also authorizes DOR to allocate tax increments to any TID that is located in Kenosha, and that is created before January 2, 2004, for not longer than 42 years after the TID is created. This bill also specifies that a donor and donee TID must terminate not later than 35 years after the last expenditures identified in their project plans are made.

Under this bill, with regard to TIDs in the City of Kenosha that are created before January 2, 2004, a planning commission may adopt not more than one amendment to modify the district's boundaries by adding contiguous territory to the district as often during the TID's expenditure period as the planning commission determines is necessary.

The bill provides that the allocation of tax increments from one TID to a contaminated TID can only be done by Kenosha TIDS 1, 4, and 5 after 2016; any allocations after that date must be approved by the joint review board.

AMENDMENTS

Assembly Amendment 1 to Assembly Bill 379 revises the section of the bill that allows unlimited amendments to add territory during a TID's expenditure period for TIDs created before January 1, 2004. The amendment allows amendments to the plan *not more than once*. It also provides that "pooling" of tax increments from one TID to a contaminated TID can only be done by Kenosha TIDs 1, 4, and 5 after 2016. The joint review board must approve any allocations after that date. [adopted 13-0-1 (Rep. Morris was absent)].

FISCAL EFFECT

A fiscal estimate prepared by the Department Revenue indicates that based on Department data, there are six TIDs in the City of Kenosha. TIDs 1, 4, and 5 were created prior to Oct. 1, 1995. The bill would allow these TIDs to exist for five additional years. TID 1 began allocated tax increments to TID 4 in 1996. Thus, it can be presumed that TID 1 had paid off its project costs in 1996. In 2002, TID 1 had \$50 million in value increments and allocated \$1.3 million to TID 4; TID 1 has allocated a total of \$7.6 million to TID 4 since 1996. Under current law, TID 1 must terminate in 2016 (37 years after its 1979 creation). If TID 1 continues to allocate its tax increments to TID 4 through 2016, it will have allocated approximately \$25.8 million to TID 4 over 20 years [(14 years x \$1.3 million per year) + \$7.6 million] when it terminates. Under the bill, TID 1 could exist for five additional years; as a result, the bill would allow TID 1 to allocate an additional \$6.5 million to TID 4 for a total of \$32.3 million.

TID 4 was created in 1989. Under current law, TID 4 could make project expenditures only through 2001 and may receive tax increments from other TIDs through 2016; currently, it must terminate in 2026. Under the bill, TID 4 could amend its project plan to add territory through 2006; it could receive tax increments for 15 more years (through 2031) and could exist through 2031. To the extent that project costs are incurred as a result of an amendment to TID 4, it could exist longer and receive more tax increments from other TIDs relative to current law. Thus an extended life to TID 4 has the potential to extend the life of all other TIDs in the City of Kenosha to the extent that they would allocate positive increments to TID 4 rather than terminate. As a result, the overlying taxing jurisdictions would have to forego the tax base associated with the value

increments of TID paid off their project costs. Thus, the tax rates of these overlying taxing jurisdictions would be slightly higher than they would be under current law.

PROS

1. Assembly Bill 379 would allow for a substantial manufacturing and industrial development in the City of Kenosha.
2. This proposed development would enhance employment opportunities for residents of Kenosha and surrounding areas.

CONS

1. The bill provides a different set of requirements and limits for TIDs in the City of Kenosha relative to other TIDs throughout the state.
2. By allowing the City of Kenosha different requirements and limits for its TIDs, other municipalities may also seek legislation for special authority and exceptions for their TIDs.

SUPPORTERS

Rep. John Steinbrink, author; Senator Bob Wirth, lead co-sponsor and Mayor John Antaramian, City of Kenosha.

OPPOSITION

No one registered or testified in opposition to Assembly Bill 379.

HISTORY

Assembly Bill 379 was introduced on June 5, 2003, and referred to the Assembly Committee on Ways and Means. A public hearing was held on June 11, 2003. On June 18, 2003, the Committee voted 11-2-1 [Reps. M. Lehman and W. Wood voted no; Rep. Morris absent] to recommend passage of AB 379 as amended.

CONTACT: Vicky Halverson, Office of Rep. Mickey Lehman

AB 379 Summary of Changes

(June 10, 2003)

1. Purpose

Extend the TID expenditure period for the contaminated TID by 5 years

Extend the maximum life of the contaminated TID by 5 years

Amend the TID boundary amendment period for the contaminated TID to be consistent with the expenditure period

Amend the TID expenditure period, maximum life and boundary amendment period for all TIDs (including contaminated and donor TIDs) created prior to October 1, 1995 so that they are all consistent

2. Results

Expenditure Period

Expenditure period for contaminated TID extended by 5 years from 12 years to 17 years.

Expenditure period for all TIDs created prior to October 1, 1995 are increased to 17 years to be consistent.

Maximum Life

Maximum life for contaminated TID extended by 5 years from 37 years to 42 years.

Maximum life for all TIDs created prior to October 1, 1995 are increased from 37 years to 42 years to be consistent.

Boundary Amendment Period

Boundary amendment period for contaminated TID increased from 7 years to 17 years to be consistent with new expenditure period for contaminated TID.

If the boundary amendment period and expenditure period were already consistent, the boundary amendment period for the contaminated TID would be extended by only 5 years from 12 years to 17 years.

Boundary amendment period for all TIDs created prior to October 1, 1995 are

increased to 17 years to be consistent.

Expenditure Period Following an Amendment

The 17 years listed in this column refers to 17 years after the creation of the TID and not 17 years following the date of the amendment. The comparable measure is the 12 year expenditure period for contaminated TIDs listed under current law, which is 12 years after the creation of the TID. The difference would once again be 5 years.

The expenditure period following an amendment for all TIDs created prior to August 1, 2004 was also increased to 17 years. This was added by the drafter of the proposed bill.

Pooling Authority

The current pooling authority of 2016 is only 20 years after the original 7 year expenditure period for the contaminated TID. The pooling authority should have been 2026. As a result, the pooling authority for the contaminated TID should have been extended by only 5 years from 2026 to 2031.

The pooling authority for all TIDs created before October 1, 1995 are increased accordingly.



State of Wisconsin • DEPARTMENT OF REVENUE

2135 RIMROCK RD. • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933
PHONE (608) 266-6466 • FAX (608) 266-5718 • <http://www.dor.state.wi.us>

Jim Doyle
Governor

Michael L. Morgan
Secretary of Revenue

Assembly Ways and Means Committee Hearing, Wednesday June 11, 2003

AB 379 - Change in the Tax Incremental Finance Law: Kenosha (Rep. Steinbrink+3/Sen. Wirth + 3)

Description of Current Law

- Under current law, a tax incremental district (TID) that is created prior to October 1, 1995 has ten years to make project expenditures and may exist for 20 years after the last expenditure, but the total number of years may not exceed 27 years. TIDs created after October 1, 1995 have seven years to make project expenditures and may exist for 16 years after the last expenditure for a maximum TID life of 23 years.
- A TID must terminate when all its project costs are paid off or at its maximum life, whichever comes first. Upon termination, the value increment of the TID, i.e. the increase in value resulting from the TID development, is returned to the tax base of the overlying jurisdictions. However, a municipality may amend the project plan of TIDs created before October 1, 1995 to allow for pooling of tax increments whereby the tax increments are allocated to another TID provided that the recipient TID was also created prior to October 1, 1995. A donor TID may allocate to another TID for no more than ten years and may not exist longer than its maximum 27 years.
- Under current law, the City of Kenosha is provided additional authority through 2016 whereby any TID that has paid off all its project costs may allocate tax increments to a TID that has been affected by environmental pollution, irrespective of when the TIDs were created. Donor TIDs created prior to October 1, 1995 may allocate tax increments for 30 years after its last expenditure and may exist for a maximum 37 years. Other donor TIDs may allocate tax increments for 16 years after the last expenditure.

Proposed Change

- The bill allows TIDs in the City of Kenosha the following: 1) 15 additional years for contaminated TIDs to receive tax increments from other TIDs (from 2016 to 2031); 2) five additional years for TIDs created prior to October 1, 1995 to allocate tax increments to a contaminated TID, 3) ten additional years for TIDs created prior to October 1, 1995 to amend their project plan to add territory, 4) unlimited amendments to add territory during a TID's expenditure period for TIDs created prior to January 1, 2004; 5) five additional years for a contaminated TID created prior to October 1, 1995 and seven additional years for other TIDs created before October 1, 1995 to make project expenditures; and 6) 14 additional years for all TIDs created prior to January 1, 2004 to make expenditures for project costs associated with a TID amendment.

Fairness/Tax Equity

- The bill provides a different set of requirements and limits for TIDs in the City of Kenosha relative to other TIDs throughout the state. The bill allows unlimited territorial amendments for several of Kenosha TIDs. In contrast, other TIDs in the state may make only one territorial amendment. Similarly, the bill allows certain Kenosha TIDs to exist up to 42 years compared to a maximum 27 years for other TIDs in the state.
- The underlying principle behind Tax Incremental Finance is that all taxing jurisdictions must share in the cost of a development project initiated by a municipality; in return, all jurisdictions will share in an expanded tax base once the project has paid for itself. Currently, TID # 1 in the City of Kenosha has existed for eight years after its costs were paid and may exist for 12 more years so it can help pay the costs of another TID. The reviewing authority initially permitted an extension of TID #1 through 2001 in order to allocate tax increments to another TID; however, subsequent legislation allowed that TID to exist and allocate tax increments for 15 additional years without approval by any reviewing authority. The bill further extends such allocations by five years, again without review or approval by representatives of other taxing jurisdictions.
- The bill allows TIDs to exist for up to 42 years in order to pay the costs associated with a contaminated TIDs; however, there is no requirement or evidence that the recipient TID has remediated any of the contamination.
- The bill will invite special legislation to grant other municipalities special authority and exceptions.

Impact on Economic Development

- The bill appears to be designed to foster economic development related to a specific project in the City of Kenosha; the bill would allow TIF monies to assist in the project in either a new TID created prior to January 1, 2004 or as an addition to an existing TID. The bill also provides extended authority to pool tax increments to an existing TID which would assist in recouping its costs.
- On the other hand, the bill has the potential to restrict the tax base of taxing jurisdictions overlying the City of Kenosha to the extent that the return of tax base associated with TID development will be delayed for up to 15 years.

Administrative Impact/Fiscal Effect

- The bill will result in increased department administrative costs associated with monitoring the different requirements and time limits for Kenosha TIDs. Administering the territorial amendments resulting under the bill will require an additional 80 hours of staff time. While these costs can be absorbed, the additional staff time required for both current and expected future special TIF legislation cannot be absorbed indefinitely at current staff levels.
- Based on Department of Revenue data, there are six TIDs in the City of Kenosha. The bill would allow three of these TIDs to exist for five additional years. TID #1 began allocating tax increments to TID # 4 in 1996. Thus, it can be presumed that TID # 1 had paid off its

project costs in 1996. In 2002, TID #1 had \$50 million in value increments and allocated \$1.3 million to TID #4; TID #1 has allocated a total of \$7.6 million to TID #4 since 1996. Assuming this TID will allocate tax increments through its maximum life, it will have allocated approximately \$25.8 million to another TID over 20 years. Under the bill, TID #1 could exist for five additional years; as a result, the bill would allow TID #1 to allocate an additional \$6.5 million to another TID for a total of \$32.3 million.

- Under the bill, the contaminated TID could amend its project plan to add territory through 2006 and could receive tax increments for 15 more years. An extended life to this TID has the potential to extend the life of all other TIDs in the City of Kenosha to the extent that they would allocate positive increments rather than terminate. As a result, the overlying taxing jurisdictions would have to forego the tax base associated with the value increments of any donor TID for a longer period of time. As a result, the tax rates of the overlying taxing jurisdictions would be slightly higher than they would be under current law.

DOR Position

- No position.

Prepared by: Rebecca Boldt, 266-6785

June 11, 2003

RB:skr

I:\hearings\rb\ab379 hrg.doc

Halverson, Vicky

From: Gaston, Geoff
Sent: Wednesday, June 11, 2003 2:47 PM
To: Halverson, Vicky

Vicky, these are drafting instructions we are working on the for the amendment discussed today. Rep. Steinbrink asked me to forward to your office before sending to LRB if your boss would like to look at them. And *thank you* again.

Could we have an amendment to SB 188 (and AB 397) that would make the following changes:

1) Page 4, line 14:

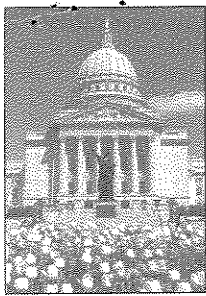
strike "as often as the plan commission considers necessary" with language similar to current 66.1105 (h) 2 that would limit the plan commission expansion to "not more than once" during the expenditure period already specified in the bill (line 15, p. 4)

NOTE: With this, we want simply to eliminate the authority in the bill for the TID to be expanded more than once, leaving the authority and expenditure period the same but specifying that the expansion can occur only a single time

2) After 2016, only TIDs 1, 4 & 5 in Kenosha can pool increments. These are the TIDs defined elsewhere in the bill as those created before October 1, 1995.

3) In addition to #2 above, Joint Review Board approval is needed for that pooling to continue

NOTE: With these changes, we want to eliminate from the bill the extension of pooling authority through 2031 (currently expires in 2016) for TIDs created AFTER 10/1/95, retain that authority (through 2031) for TIDs created BEFORE 10/1/95 but add a requirement that the Joint Review Board must approve that authority in 2016.



Michael (Mickey)
Lehman

State Representative
99th Assembly District

Committee Chair: Ways and Means

Copy

Memorandum

To: Ways & Means Committee Members

From: Rep. Michael "Mickey" Lehman

Date: June 16, 2003

Re: Amendment to AB 379 for June 18th Public Hearing/Executive Session

The Committee will consider the attached amendment, AA1 to AB 379, introduced by the author, Rep. Steinbrink, at Wednesday's Public Hearing/Executive Session.

A reminder that the Committee will be meeting at 10:00.

Vote Record

Committee on Ways and Means

Date: 6/18/03Moved by: HeblSeconded by: KerkmanAB 379

SB _____

Clearinghouse Rule _____

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

☒ Passage☐ Adoption☐ Confirmation☐ Concurrence☐ Indefinite Postponement☐ Introduction☐ Rejection☐ Tabling☐ Nonconcurrence*as amended*Committee MemberAyeNoAbsentNot Voting

Representative Michael Lehman

☐☒☐☐

Representative Jeffrey Wood

☒☐☐☐

Representative Stephen Nass

☒☐☐☐

Representative Eugene Hahn

☒☐☐☐

Representative Frank Lasee

☒☐☐☐

Representative Suzanne Jeskewitz

☒☐☐☐

Representative Samantha Kerkman

☒☐☐☐

Representative Thomas Lothian

☒☐☐☐

Representative Wayne Wood

☐☒☐☐

Representative Leon Young

☒☐☐☐

Representative Terese Berceau

☒☐☐☐

Representative Robert Ziegelbauer

☒☐☐☐

Representative Johnnie Morris

☐☐☒☐

Representative Tom Hebl

☒☐☐☐

Totals:

1021 

Vote Record

Committee on Ways and Means

Date: 6/18/03Moved by: BerceauSeconded by: Hebl

AB _____

SB _____

Clearinghouse Rule _____

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

A/S Amdt 1-0655/1

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

☐ Passage☒ Adoption☐ Confirmation☐ Concurrence☐ Indefinite Postponement☐ Introduction☐ Rejection☐ Tabling☐ NonconcurrenceCommittee MemberAyeNoAbsentNot Voting

Representative Michael Lehman

☒☐☐☐

Representative Jeffrey Wood

☒☐☐☐

Representative Stephen Nass

☒☐☐☐

Representative Eugene Hahn

☒☐☐☐

Representative Frank Lasee

☒☐☐☐

Representative Suzanne Jeskewitz

☒☐☐☐

Representative Samantha Kerkman

☒☐☐☐

Representative Thomas Lothian

☒☐☐☐

Representative Wayne Wood

☒☐☐☐

Representative Leon Young

☒☐☐☐

Representative Terese Berceau

☒☐☐☐

Representative Robert Ziegelbauer

☒☐☐☐

Representative Johnnie Morris

☐☐☒☐

Representative Tom Hebl

☒☐☐☐

Totals:

1301